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**FINAL REPORT**  
**DIAGNOSTIC OF THE NICARAGUAN**  
**NATIONAL ASSEMBLY**

**AID IQC No. AEP-0085-I-00-3003-00**  
**Delivery Order No. 18**

**Prepared for:**

**Office of Democratic Initiatives**  
**U.S. Agency for International Development**  
**Managua, Nicaragua**

**By:**

**Francisco J. Sanchez**  
**Ivan Wong**

**Checchi and Company Consulting, Inc.**  
**1899 L Street, N.W., Suite 800**  
**Washington DC 20036-3804**

**March 1996**

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## EXECUTIVE SUMMARY

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Nicaragua held its first internationally validated democratic elections in 1990, and in 1995 approved a series of constitutional reforms that, for one, enhanced the powers and duties of the Nicaraguan National Assembly (NNA). The Nicaraguan government and its four branches--the Executive, Judicial, Electoral, and Legislative--must now pass through a period of learning how to fulfill their roles in a democratic state, how to relate to each other as branches, and how to gain the public trust.

The NNA must confront new realities in its legislative, oversight, and representative functions. It must become a professional organization equipped with the necessary tools to deal with highly complicated and technical issues. As one Diputado described it, "the NNA is dealing currently with issues of the 21st century with a 19th century structure." Globally many legislative bodies have gone through a transition toward technocratization of their work. As political, economic, and social issues become increasingly technical and complicated, legislatures must have easy access to information sources and must have available the technicians to assist them in the analysis necessary to create legislation pertaining to those issues.

Many of the problems the NNA faces are not uncommon of newly developed legislatures. Democracy building (or rebuilding) cannot be accomplished with a two-year legislative modernization project. The acquisition of computer equipment does not guarantee an effective legislature. The perceptions of legislators and citizens alike have to change; such change requires time, sometimes decades, to take place. This diagnostic study intends to provide a guide to USAID/Nicaragua as to the major problems and constraints faced by the NNA as perceived by legislators, legislative staff, other branches of government, and interest groups that interact frequently with the NNA.

The major conclusions and recommendations of this study can be summarized as follows:

### Conclusions

- \* The National Assembly is in transition from a rubber stamp legislature to a viable legislative body. However, the NNA lacks the resources to perform its new roles and functions as set forth in the new constitution.

- \* The NNA has an archaic and confusing system of Rules of Order and General Law that must be reformed to meet current needs and expedite the bill introduction, analysis, and approval processes.
- \* Committee aides lack the technical capacity to analyze bills or conduct thorough legal and legislative research.
- \* The lack of a legislative professional career severely limits the NNA from attracting and retaining quality legislative and administrative staff. It is very difficult to program short or long-term training for these individuals as there are no guarantees that their jobs will be protected from political shifts. This also affects the institutional memory of the legislature and places it at a disadvantage in comparison to other branches of government.
- \* The newly created budget analysis unit lacks the tools, technical capacity, and experience to assist the NNA in budget analysis, approval, and oversight. There is no support from the Executive Branch counterpart to provide much needed budget information, a problem which appears to be political in nature. The young and inexperienced staff could benefit from observing the budget process in other countries. One staff member is an alternate legislator (Diputado Suplente), which contradicts the non-partisan nature of the budget analysis unit.
- \* The lack of adequate physical facilities severely limits the ability of legislators to carry out their elected responsibilities. Directive Board (Junta Directiva) members and committee chairpersons are the only legislators with individual offices. The rest share limited office space, a secretary and a political aide. Committee rooms are also scarce, forcing Committee leaders to hold many meetings in the open mezzanine floor of the chamber.
- \* The Management Information System (MIS) lacks a master plan, experienced leadership, and direction. In addition, the MIS does not yet have the software installed to track bills and retrieve existing statutes, a capability that is urgently needed by the NNA since these functions are rarely done manually. Consequently, users feel frustrated and have lost confidence in the recently installed information network.
- \* Some individuals argue that relations with the Executive Branch hit rock bottom during the constitutional reform debate. Others argue the give-and-take of the debate laid the foundation for a new legislative-executive relationship. More understanding of each other's role is needed. Relations with the Electoral Council seem to be on the right track. Relations with the Supreme Court are expected to improve once new magistrates are selected in 1996. Relations with other groups, such as the military, are progressively improving.

- \* Legislators interviewed for this report did not identify the area of constituent relations as a current top priority, but suggested that the demand for assistance in this area will rise dramatically following the election of regional diputados in October 1996. As new members assume their new constitutional responsibilities of representing districts and begin to connect with their constituents, assistance will be needed to teach legislators how to fulfill this new role. Constituents, on the other hand, will need to become better informed and educated about how to voice their concerns to those who represent them.
- \* Assistance from other donors has been sporadic, ad hoc, and piecemeal. USAID, the Inter-American Development Bank (IDB) and the European Community (EC) will be the only long-term donors in 1996. A diagnostic study of the NNA conducted by the IDB in September 1995 reached the conclusions similar to this study. In response, the IDB is planning a 3-year legislative strengthening project, valued at between \$750,000 and \$1.5 million. The European Community donated \$500,000 to support the Instituto de Investigaciones y Asistencia Legislativa (IIAL), a local NGO that provides legislative research services to the NNA. It is not clear whether the EC plans to continue to support this organization in the future.

## **Recommendations**

- \* The NNA should create and politically support a Modernization Steering Committee (MSC). International donors must assist the MSC in developing a 3 year development plan and identifying areas of priority. The MSC will become the policy-making body for all modernization efforts, and the channel for all international donor assistance to the NNA. The Committee should be composed of the President of the Assembly, and no more than four other legislators representing political parties with a substantial presence in the NNA. The Chief of Party of the planned USAID/Nicaragua legislative strengthening project should assume the role of MSC Executive Secretary.
- \* The reform of the Rules of Order and General Law is a top priority of the legislators interviewed for this study. Technical assistance should be provided for this purpose early in the project.
- \* The IIAL could possibly be used as the main mechanism to enhance the legislative and legal research capability of the NNA. Senior university students, mentored by well known former legislators with strong academic credentials, could be selected to gather all background information available on specific subjects for the subsequent drafting of legislation by committee and political aides. To enhance knowledge of highly technical and complex subject matter, IIAL could sponsor seminars on specific topics of legislative interest for legislators and committee aides. To assist in the drafting of legislation which requires a high level of specialized knowledge, IIAL could hire short-term consultants to assist committee aides with this task. Study tours could be part of this latter activity to gain experience from other countries.

- \* The project should provide technical assistance for the development of an MIS master plan, in accordance with MSC priorities. One immediate problem area identified by legislators is the lack of a bill tracking system. This task could be accomplished with existing equipment hardware by hiring short-term programmers.
- \* The NNA Directive Board must secure the political support of the Executive Branch for budget information sharing. For this, the project could sponsor study tours and seminars on executive-legislative relations. The Board should also revise the internal rules so that elected officials, such as the current Diputado Suplente, are prohibited from working for the Budget Analysis Unit. Once this latter criterion is met, the project should provide technical assistance and sponsor study tours to enhance the budget analysis skills of Unit staff.
- \* Technical assistance is needed to draft a legislative career service law, or amend the Rules of Order and/or General Law to specifically identify and categorize professional and political appointments. In addition, the NNA should establish a formal personnel management system, containing clearly articulated policies for hiring, promoting, and dismissing employees.
- \* Legislators identified the construction of new legislative facilities as their top priority. Although a potentially costly undertaking, donors could provide technical assistance to review and update new-building plans and drawings that were drafted in 1992. The update would help to ensure that the physical needs and specifications of the USAID/Nicaragua financed MIS are met.
- \* Assistance in the constituent relations area should be given when the demand for this type of assistance rises, and if supported by the MSC. The assistance in this area should be directed to two groups: legislators and the public. The former should be exposed to practical problems and solutions related to constituent relations through seminars sponsored by the project and, possibly, coordinated through IIAL. The latter should receive educational materials on the role and functions of the NNA and biographical data on legislators.
- \* Close coordination with the IDB and EC, beginning with the design stage, is imperative if successful and efficient use of resources is to result. A legislative donor committee should be immediately formed to share information and coordinate project design, contractor selection, project implementation, and to measure progress. This committee should meet at least monthly starting in early 1996. Follow-up coordination could be done through the MSC.

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## INTRODUCTION

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### **A. Purpose**

This diagnostic study represents an analysis of the institutional needs of the Nicaraguan National Assembly. It covers all areas pertaining to the NNA including the physical structure, administrative organization and management, the legislative process, management information system, and relations with other branches of government, interest groups, and the public. Support provided by other donors to the NNA is also described in this report. The objective of this study is to identify for USAID/Nicaragua the areas in which the mission could provide assistance to strengthen the legislature.

### **B. Background**

Well-balanced democratic states provide for a separation of powers among several branches of government and tolerate views of minority groups. Normally these branches consist of an executive, judicial, and legislative. The Republic of Nicaragua differs slightly from the norm in that it has one additional branch of government, the Supreme Electoral Council. The balance of constitutional and real power among these branches is the barometer of a democratic state.

The recently enacted reforms to the Constitution established the powers and duties of the National Assembly. The changes grant legislators the power to legislate, conduct oversight, and represent the public. Among established democracies these are the three major functions of a legislative body.

### **C. Methodology**

This study was contracted to Checchi and Company Consulting, Inc. of Washington, D.C. who in turn hired Francisco J. Sanchez as legislative expert and team leader, and Ivan Wong as information system specialist.

The consultants conducted interviews over a period of 20 days with legislators, legislative administrative staff, committee staff, interest groups, international donor agencies, officials from other branches of government, and USAID mission officials. (Refer to Annex A for list of individuals interviewed). Documents were gathered and studied to better understand the



structural, political, and statistical framework of the NNA. (Refer to Annex B for list of documents consulted). As part of this investigation, the consultants also traveled to Costa Rica at the suggestion of USAID/N, to observe and study, for comparative purposes, another USAID financed legislative strengthening project.

#### **D. Organization of the Report**

This document is divided into four main sections. Section One, "National Assembly Legal Framework and Composition," describes the most significant constitutional duties and responsibilities of the NNA, and also includes general comments about the General Law of the NNA. Section Two, "National Assembly Components: Problems and Constraints," is divided into the four areas that comprise legislative work. The Legislative Functions area covers bill drafting, budget oversight, and constituent relations; the Legislative Process area discusses the NNA's Internal Rules, bill information file system, physical facilities, and legislative staff; the Administrative area assesses the human resource and financial capability of support staff; and the Management Information System area describes the current condition of hardware, software, MIS staff, and utilization of the MIS in the NNA. Section Three, "Relations With Other Branches and Institutions," briefly analyzes the relationship of the NNA with the Executive, Judicial, and Electoral branches respectively. It also discusses the NNA's relationship with the military, media, and interest groups. Finally, section Four reviews the involvement of international donor agencies in strengthening the NNA.

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## **I. NATIONAL ASSEMBLY LEGAL FRAMEWORK AND COMPOSITION**

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### **A. Legal Framework**

There are three documents that rule the NNA: the 1995 Constitution, the National Assembly General Law (Estatuto General de la Asamblea Nacional) as published in the Gaceta No. 5, January 4, 1991, and the Internal Rules (reglamento interno) established under National Assembly decree 142 (decreto A.N. 142). The following subsection summarizes the relevant articles of the Constitution which refer to the NNA. Section B. of this chapter (Political and Administrative Composition) describes pertinent articles of the General Law and Internal Rules.

#### **1. Constitution**

The 1995 Constitution grants legislative power to the National Assembly by popular mandate (Art. 132). Following the 1996 national elections, the NNA will be composed of 90 Diputados: 70 elected by departmental and autonomous regions, and 20 elected nationally. Article 133 (not amended from the previous constitution), states that Presidential and Vice-presidential candidates not elected but receiving a number of votes equal or larger than the average of regional electoral coefficients, form part of the NNA as well. Diputados and supplemental Diputados are elected for a period of 5 years starting on January 9 of the year following the election (Art. 136).

Article 134 establishes who can and cannot be a Diputado. Among the latter are Ministers, Vice Ministers, Supreme Court and Supreme Electoral Council Justices, the Attorney General, the Human Rights Defender, and Mayors unless resignation from their posts occurs at least 12 months prior to the election.

Article 138 lists 32 functions and duties of the National Assembly, of which the following are considered most important (See Annex C for a full list of NNA functions and duties):

- a. Draft and approve legislation and decrees as well as amend existing law.
- b. Interpret law.
- c. Request information and reports from Ministers and Vice Ministers through documentation and testimony.
- d. Debate and approve the General Budget Annual Law, and be informed periodically of its execution.

- e. Select Supreme Court Justices, Supreme Electoral Council Justices, Central Bank Superintendent and Vice Superintendent, Attorney General and Deputy Attorney General, and the Human Rights Defender and Deputy Defender. Candidates for these posts cannot be related by blood to the fourth degree or by marriage to the second degree to the President or Diputados who propose them.
- f. Approve or deny international treaties and accords.
- g. Create permanent, special, and research committees.
- h. Determine the political and administrative division of the national territory.
- i. Make recommendations regarding social and economic development plans and policies.
- j. Authorize Presidential trips abroad when they extend beyond 15 days.
- k. Receive accusations and formal complaints from judicial authorities and citizens.
- l. Authorize or deny the deployment of military troops outside the national territory.
- m. Create, approve, modify or eliminate taxes.

Article 140 names those who can introduce legislation, in addition to Diputados: The President of the Republic, Supreme Court, Electoral Supreme Council, the Autonomous Regional Councils and municipal councils, and citizens, when they present 5,000 signatures except in matters of taxes, international affairs, amnesties and pardons, and organizational laws.

The NNA's legislative process, and the publication of laws are explained in Article 141. A legislative quorum is established by the presence of half plus one of the number of Diputados elected. Bills, decrees, resolutions, treaties, and declarations are approved by absolute majority of Diputados present, unless otherwise noted in the Constitution. The details of this process consist of:

- \* Each bill introduced must include a written explanation as to why the bill is needed.
- \* Once new bills are read in plenary session, they are sent to the respective committee.
- \* In case of urgency by the President of the Republic, the NNA Executive committee could present the bill before the plenary, if it has been presented to Diputados 48 hours prior to its discussion.
- \* Extensive laws can be approved by chapters.
- \* Once the committee report is received and read in the plenary, the bill is debated and voted on in general terms. If approved, the bill is debated in detail.
- \* Once the bill is approved, it is sent to the President for sanction, promulgation, and publication. Constitutional reforms and laws, as well as legislative decrees are exempted from this provision. If the President does not promulgate or publish a law in 15 days, the NNA President will order its publication in newspapers.
- \* If a law stipulates the need for a regulatory code, and if the President of Republic does not present one in the determined time period, the Directive Board will commend the respective committee with this duty.
- \* Existing laws can only be deleted or amended by another law. Enacted laws are effective the day of their publication in the Daily Official Gazette (La Gaceta, el diario oficial).

- \* Bills introduced in one legislative session and not debated shall be considered in the next legislative session. Bills that were debated and not approved cannot be considered in the same legislative session.

The Presidential veto and process is explained in articles 142 and 143. The President has 15 days to veto a bill. The veto can be partial or total. In the case of a partial veto the President can introduce substitute language. A vetoed bill, whether totally or partially, is sent back to the NNA with an explanation for the veto. The NNA can override the veto with a vote of half plus one of the number of elected Diputados.

## 2. Comments on NNA General Law

An interesting feature of the NNA General Law is that the Executive Secretary is the liaison between the Assembly and other branches. The law also stipulates that the budget office may request all documents necessary from the Executive; herein lies the legal basis to establish the political relationship between the budget unit and the Minister of Finance, explained further in chapter III.A.2. Article 39 of the law (creation of special committees) grants NNA the legal authority to create special committees, one of which could be a Modernization and Legislative Strengthening Committee to serve as the steering committee for modernization strategies and as counterparts for international assistance. An inherently weak element of the law appears to be the authority given to the President of the Assembly to appoint the NNA's legal advisor, a technical position that should be shielded from annual changes in political leadership. The same law in article 28 refers to political appointees and professional staff, but does not specify which positions fall into which category.

## B. Political and Administrative Composition

### 1. Political Composition

The NNA is led by an elected Directive Board (Junta Directiva). The Board is composed of a president, three vice presidents, and three secretaries and is elected for a period of one year. The Board, among other duties, convokes and presides over ordinary and extraordinary sessions; approves the agenda and daily session Order of the Day; proposes the creation, elimination, or fusion of committees; receives and transmits Diputados' requests in relation to reports and relations with the executive; requests work reports and plans from committees; and approves disciplinary actions to National Assembly members.

The bulk of legislative work of the National Assembly is directed to committees. All committees report on bills that are assigned to them by the NNA president, the plenary, Directive Board or themselves if the subject matter is pertinent. These reports are called *dictámenes*. The committees may investigate government agencies, request information from them, and may ask government officials to testify. Committees are presided by their own

Directive Board composed of a president, two vice presidents, and two secretaries. There are three types of committees: permanent, special, and investigative. Currently, there are 17 permanent committees, consisting of:

Defense and Government	Justice	Exterior
Education, Culture, and Sports	Health, Social Security and Welfare	Anti-drugs
Labor and Union Affairs	Agrarian Reform and Fishery Affairs	Environment and Natural Resources
Economic, Finance, and Budget Affairs	Population and Community Affairs Construction	Communications, Transportation and Energy
Pro-Human Rights and Peace	Ethnic and Atlantic Coast Community Affairs	Central American Integration
Women, Youth, Children, and Family Affairs	Production, Distribution, and Consumption	

Special committees are created by the Assembly for specific functions; Investigative committees are created to investigate or research specific subjects or issues. The 1995 NNA has a special committee on Anti-corruption but no investigative committees. Some Diputados expressed intent to convert the Anti-corruption special committee into a permanent committee during the 1996 legislature.

## 2. Administrative Composition

The administrative structure of the NNA is headed by the Executive Secretariat (Secretaria Ejecutiva). Staff are grouped into legislative and support categories. Legislative staff are based in two units: the Judicial and Legislative Analysis Unit (Dirección General de Asesoría Legislativa Jurídica); and the Budget and Oversight Analysis Unit (Dirección General de Análisis y Seguimiento Presupuestario). The Judicial and Legislative Unit is sub-divided into the Aides Directive (Dirección de Asesoría) which analyzes and organizes assistance to Diputados and committees. Aides (asesores) are also responsible for the transcripts of committee meeting notes and other related documents. The other sub-unit, the Daily Debate Directive (Dirección Diario Debates), is responsible for transcribing plenary sessions.

The Budget Analysis unit is also sub-divided into two units: the Analysis Department which is responsible for fiscal and social impact analysis; and the Budget Oversight unit which assists in the analysis of the annual budget law.

Support staff are divided into four main units: 1) The Administrative and Financial Division which is sub-divided into Finance, Personnel, and General Services; 2) The Legislative Archive, Documentation and General Information Division, sub-divided into Legislative Information, in charge of the computerization of existing laws, the Library, and the Division of Printing, Reproduction, and Distribution of Documents; 3) The General Division of International Relations and Press Relations, sub-divided into International Relations, Protocol, and Media Relations; and 4) The Management Information Systems (MIS) Division.

In addition to the legislative and support staff mentioned above, each political party is allotted a number of individuals to assist Diputados in their duties. A group of no less than four Diputados representing one party is given an amount of money with which they can use to hire a secretary and an aide, and rent office space which normally consists of a reception area and one enclosed office to be shared among them. Shared offices are provided by the NNA and are located in the Bancamerica Building next to the National Assembly building, which is in great need of modernization. The staff is hired independently by the Diputados with the assistance of their political party. The duties of Political aides vary but normally include bill drafting, committee work follow-up, and legislative research.

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## **II. NATIONAL ASSEMBLY COMPONENTS: PROBLEMS AND CONSTRAINTS**

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### **A. Legislative Functions**

#### **1. Bill Drafting**

Historically, most Latin American countries have relied on the Executive Branch to draft laws since it was the only government entity with access to resources and information. Nicaragua is no different in this respect. Although the majority of bills approved (70% according to a committee aide) originate in the legislature, the most important and complex laws come from the Executive, such as those relating to telecommunications, the military code, and the environment. Diputados in Nicaragua tend to assume a more passive role when it comes to initiating major pieces of legislation. Two factors are important to consider in this regard: a) the desire to legislate, and b) the ability to legislate.

In the NNA there does not appear to be a pressing desire to legislate because that function historically has been performed by the Executive. This passivity is likely to change gradually over time as legislators become increasingly responsible for meeting the demands of their constituents. The demand for efficient, technical, bill drafting will become more noticeable, perhaps, after the election of the new National Assembly, after which 70 of the 90 Diputados will represent a specific district.

International donors can assist the NNA by helping to strengthen the institution's ability to legislate. This ability requires a technical bill drafting capability, and a capacity to research a subject and understand it well enough to legislate. The NNA presently lacks the skills to effectively perform both functions.

#### **a. Technical Drafting**

Good bill drafting is defined as that which follows judicial wording standards, and one in which grammatical errors are non-existent. In developed congresses and legislatures, the "art" of bill drafting is the responsibility of legal staffs, partisan or politically neutral, whose sole responsibility is to put in writing the legislator's ideas and concepts according to grammatical normatives and the jurisprudence standards of the country. As discussed before, the majority of technically complex bills are drafted by the Executive branch, leaving mainly simple bills to the NNA. These bills are normally drafted by Diputados, political aides, or in some instances,

committee aides. On rare occasions, outside consultants are hired to draft legislation. On issue-related bills, such as human rights, private organizations have presented draft bills. Aside from the lack of legal uniformity in legislation, technical capability for bill drafting was not identified by legislators as one of the most important areas of need for the NNA.

b. Legislative Research

In order to legislate effectively legislators and staff must become well-informed of the particular subject matter. This is usually done through legislative research. Such research is time sensitive and very specific in nature. In general, legislators lack the time to research an issue deeply. In order to make an informed judgment on a bill, legislators require concise, analytical summaries of the pending legislation. The main characteristic of the legislative report is its brevity and non-technical language; if possible, the report should include the positions of national groups that are for and against the bill.

This type of technical legislative research is not done in the NNA. The only research conducted is legal in nature and is limited, in most instances, to the legal background of the issue. Legal research is complementary to the kind of technical research Diputados state they need.

In 1995, the Legislative Assistance and Research Institute (Instituto de Investigacion y Asistencia Legislativa - IIAL) was created to help give the NNA access to legislative research. IIAL's four main objectives are:

1. To provide legislative assistance to the NNA , to regional legislatures, and to Diputados in the form of research studies, polling data, and analysis of bills related to the legislative agenda;
2. To conduct seminars, workshops, courses, and conferences on specific topics of legislative interest. This training will be directed toward not only Diputados and legislative staff, but also to other public institutions;
3. To educate citizens about bills being considered or laws approved by the NNA that are of national interest; and
4. To capture, select, and provide legislative information to all those interested.

The IIAL is headed by a Board of Directors whose function is to provide overall policy guidelines and direction. Its current members are: Dr. Cesar Arostegui Centeno, Dr. Luis Humberto Guzman (former President of the NNA), Dr. Julio Lopez Miranda, Dr. Julio Garcia Vilchez, Lic. Juan Manuel Espinoza(former NNA Executive Secretary), and Lic. Oscar Mazier Aranda.

According to the by-laws of the IIAL, the Board is supported by a Consultative Council and a Technical Council. However, neither of these two councils is currently operational. The



Consultative Council is to be made up of no more than 15 members representing political parties, academia, and civil society and presided over by IIAL's General Director. The Consultative Council's duties include commenting on the Institute's Action Plan, and publicly promoting and supporting Institute activities. The Technical Council is chartered with assisting the General Director on technical issues.

The Institute is also divided into five distinct Directives, four technical and one administrative. The Legislative Assistance Directive conducts studies, polls, and other activities related to legislative issues. The Training Directive is in charge of developing courses, seminars, workshops, and conferences for Diputados and NNA staff, civic leaders, and municipal government officials on legislative issues. The Publication and Promotion Directive, in addition to publishing studies and reports, promotes NNA legislative products. Finally, the Documentation and Information Directive channels all requests for available legislative materials made by Diputados, NNA staff and the general public.

To date, IIAL's activities have been limited to workshops, conferences, and comparative legal studies. Its methodology consists of developing an activity plan based on the needs of the standing committees of the NNA. In order to determine the NNA's legislative research priorities, the Directors of each IIAL Directive first meet with NNA committee chairpersons. Once activities are designed, an outside consultant is hired to carry out the activity.

Funding for the IIAL is based on the annual activity work plan. The initial commitment by the European Community to the IIAL of \$500,000 is expected to be fully expended by the end of 1996. A few other international donors, such as the Swedes, have separately subsidized other IIAL-sponsored activities.

The few legislators that were aware of IIAL thought the quality of their work was high and useful to the members of the NNA. One legislator, however, pointed out that the products tended to be editorial in nature and were often "too little too late". To be an effective support institution of the NNA, IIAL's work needs to be coordinated with the legislative agenda. Furthermore, IIAL's work should be tailored to the needs of Diputados. IIAL could provide short legislative and comparative law analysis of a particular bill and distribute it to legislators when the bill is taken up on the floor.

c. Budget Analysis and Oversight

Articles 112 and 114 of the Constitution were amended by the constitutional reforms to prescribe the fiscal authority of the NNA. The NNA is now authorized to amend the budget bill sent by the Executive without raising the expenditure total set forth in the bill. It is the sole right of the NNA to modify the budget and approve budget transfers; new taxes cannot be included in the budget law. The NNA also has the authority to create, approve, modify, and/or eliminate taxes.

For a legislative body to effectively perform this function it must have the tools to analyze fiscal data, carry out revenue and expenditure forecasts, and track expenditures throughout the fiscal year. The 1995 NNA created an office of Budget Analysis and Oversight (BAO) to carry out two major functions: assist the Finance and Budget Committee in the analysis, approval, and daily oversight of the budget law; and provide fiscal analysis statements of all bills considered by the NNA. According to the Budget Regulatory Law, the budget bill must be sent to the NNA no later than October 15 of the year preceding the beginning of the fiscal year, January 1 and the budget must be approved by December 31. This timetable allows the NNA and BAO just 10 weeks to review, amend, and approve the budget bill. Compared to other legislatures, this is a relatively short amount of time to adequately fulfill these Constitutionally-mandated functions. Amendments are primarily done in the Finance and Budget Committee and some are added in the plenary session as well.

The BAO currently has a director, 3 analysts (2 economists and a sociologist) and a secretary. With the current staff, the unit is only able to perform superficial budget analysis and oversight, and some superficial social impact analysis. At present staffing level, the office is not able to conduct any fiscal impact analysis of pending legislation. This office is hindered by three main problems: lack of information, scarcity of technical expertise and experience among staff, and partisan staff.

In order for any legislative budget office to analyze a budget bill originated in the Executive branch, it must first have access to very detailed budget information. In Nicaragua, the budget bill presented by the Executive is incomplete and inaccurate. Information for some budget categories of the 1996 budget document presented to the BAO, regarding capital expenditures and internal debt for example, lacked detail and proper explanations. During calendar year 1995 budget information was not forthcoming from the executive even after letters requesting such information were sent by the Committee Chair. Monthly expenditure figures for 1995 from the Finance Ministry arrived on Sept. 15. Figures provided by the Central Bank and Ministry of Finance did not coincide. The lack of access to information is a problem which is both political and historical in nature. To fulfill its constitutionally mandated duty to amend and approve the federal budget, the highest legislative spheres must receive assurances from Executive branch counterparts that budget and financial information will be routinely sent to the NNA.

A second constraint on the BAO is that the staff lacks extensive legislative budget analysis experience. The Director of this unit has a Masters degree from a U.S. academic institution in Public Administration with a concentration in legislative affairs. Although the fact that she was selected for the position for her academic credentials is a good precedent for similar positions in the NNA, she still lacks the technical skills to assist her co-workers in budget analysis and oversight. Her leadership skills are excellent and could be used to their full potential in the BAO if the office adds staff members with extensive budget formulation and analysis experience, preferably someone with recent experience working in the Executive branch.

Third, one of the BAO analysts is a Supplemental Diputado, who in the recent past has used inside information to write editorial articles in a local newspaper, jeopardizing the non-partisan

image the office is trying to portray. Having tainted the objective nature of the BAO, the individual should probably be immediately removed from the position.

Two other minor problems observed are the inability of the Unit to reproduce a budget bill and the lack of a master development plan for the office. Since the budget bill is submitted by the Executive in paper form (as opposed to on diskette), NNA generated amendments to the budget bill are attached to the one sent by the Executive in order to avoid re-typing the entire budget bill; once sent to the President for signature, the Executive publishes, much later in the year, the current approved budget and sends a copy to the NNA. This action gives the appearance that the budget is the sole responsibility of the Executive. The NNA should quickly develop the ability to produce its own budget bill. Second, a master plan must be drafted to better define the BAO's duties and functions in terms of the type of services the office can and should provide, and design a realistic timetable to better predict when such goals will be achieved.

The current NNA took a very positive first step by making this unit a separate Direction within the administrative structure, giving it the potential to become an effective tool for legislators to carry out the proper analysis and oversight of the budget. However, without adequate technical personnel or access to well-organized and complete budgetary information from the Executive, the BAO remains a relatively weak unit. In order to rectify this situation, the NNA leadership needs to hire, train, and retain a cadre of non-partisan, technical staff for the BAO, preferably a few individuals with past budget experience from the Executive Branch. At the same time, the Directive Board must do all it can to ensure that the Executive branch recognizes the important function of the BAO and readily complies with requests for budgetary information and related fiscal data.

#### d. Representation and Constituent Relations

The concept of Diputados representing a region or group of individuals is relatively new in most Latin American nations, including Nicaragua. Typically Diputados are elected by a party list dictated by the presidential candidate and his/her party. Consequently, when a Diputado is elected loyalty is given first to the political party and the Presidential candidate who got him/her elected; secondly to interest groups, businesses, and financial backers; and lastly, the People whom they, in theory, represent. Although this statement is a broad generalization of Diputados' loyalties, several members of the NNA admitted the statement holds true for most Diputados.

There is virtually no linkage between legislators and their districts. The concept of a member of congress visiting his/her congressional district to assess its need is virtually unheard of in Nicaragua. According to one Diputado Chairperson of a committee, citizens in need of help or with complaints turn to city officials first, NGOs second, and in the last instance to NNA committees. Citizens are also distanced from the NNA, in part, because they do not fully understand the role of the NNA.

One Diputado suggested that the construction of a new legislative building will allow them to receive constituents in their own office, thus enhancing a Diputados' ability to respond to

constituent needs. However, the construction of a building cannot ensure that a new relationship will unfold between Diputados and their constituents. Lines of communication between constituents and their congressional representatives are established by defining institutional roles. On the one hand, constituents must know who represents them and how to influence the legislative process. That is a civic education process, in which the NNA could and should be involved. Furthermore, the Diputados must stay in close contact with the region and its civic and local government leaders and open several communication channels to those individuals.

## **B. Legislative Process**

The legislative process of the NNA is weak in several areas. The weaknesses consist of: Internal Rules that require reform in order to maximize the benefits of an active committee system; a cumbersome bill tracking system; lack of a system for retrieving past bills and statutes; inadequate physical facilities; chaotic plenary sessions; and, with the exception of a few individuals, an inexperienced legislative staff.

### **1. Reform of Internal Rules**

Although the current Internal Rules designate committees as the stage of the process at which bills are analyzed and amended, the NNA reality is that only a few committees do substantial work. Moreover, those committees that do work often lack the research and human resources to perform their duties effectively. Because the committees are not effective bill-drafting tools, the development of the majority of legislation falls to the plenary. This process of depending on the plenary for bill development is an inefficient way of dealing with legislation. A preferred way is to examine and debate proposed bills in committee and exact most of the changes there. By the time the bill makes it to the plenary only minor changes should be required. If committees were able to increase their capacity to develop and report on legislation, the plenary sessions would not be burdened with cumbersome legislative preparatory work and thus would be easier to follow.

Plenary sessions of practically all national legislatures contain a tolerable level of noise and managed chaos. Legislators are often seen reading documents (including the newspaper, which an outsider could interpret as a sign of boredom), writing, speaking on the phone, and talking to colleagues and aides. These are the typical activities that take place on the Chamber floor.

The level of activity witnessed during NNA plenary sessions, however, went beyond the standard level of most legislatures. The sessions observed seemed too informal, with a touch of sloppiness and an unbearable noise level. Journalists and TV camera crews appeared to have unrestricted freedom to walk the floor, a very distracting presence. The electronic board often flashed personal messages to Diputados informing them of telephone calls, and visitors. We saw several Diputados eating what appeared to be large meals on the floor. (In most legislatures, light snacks are allowed only during extraneous circumstances such as lengthy sessions). All amendments to bills were read out loud making the session extensively long and difficult to

follow. The piles of paper on each desk, stacked 18-24 inches high, seemed excessive. Rather than allowing legislators to speak in turn, the presiding officer determines who shall speak. Diputados were also receiving cellular phone calls on the floor, a very rare occurrence in other legislatures. No official clock was visible and voting is not timed. The absence of definitive procedural rules allows the presiding officer to make subjective decisions.

Even when not in session, members of the public are restricted entrance to the legislative building. If the NNA wants to raise the level of public awareness about the role of the legislature in Nicaraguan society, the public must be allowed to witness legislators at work.

Finally, voting during plenary sessions is not well regulated. The local newspaper La Prensa ran an article in December 1995 describing an incident in which several absent Diputados "voted" for an amendment. When the roll call was taken, right after the vote, the board indeed reflected several "voting" Diputados not present in the chamber. Incidents such as these are undoubtedly the result of a very noisy, undisciplined, plenary session.

The Chamber floor and its proceedings must reflect respect, some semblance of order, and discipline to allow the legislature to function effectively and efficiently. A more effective climate for conducting business on the floor can only be created through reform of the Internal Rules.

## 2. Bill Tracking

Several Diputados complained that tracking a bill is nearly impossible to do. These Diputados identified the lack of technological tools as the main reason for difficulty in following legislation. When a bill is taken up by the plenary, amendments (mociones) are read out loud, regardless of their length. Diputados have to find on their desks, amidst a mountain of paper, the particular amendment to read along with the presiding officer. It is very difficult for a Diputado to obtain copies of bills or committee reports before taking up a bill in the plenary if he/she does not belong to the committee from which the bill originated.

## 3. Lack of Bill Retrieval System

Because past members of NNA executive boards have emptied files before leaving office, virtually no records exist of previous bills and related documents or original copies of approved laws. Apparently, a file was started several years ago but no one could determine how far back file dates went. The way amendments are presented and processed reflects a lack of administrative organization and resources. Amendments are submitted on handwritten pieces of paper, although a form was devised to introduce amendments. Once a vote is taken, the presiding official notes on the same piece of paper if the amendment was approved or not. The session secretary takes handwritten notes of the session and all sessions are recorded by audio tape and later transcribed as well. These mechanisms are not foolproof, however, as demonstrated by an occurrence during the time of this assessment. Following newspaper publication of the TELCOR law in December 1995, a Diputado complained that his amendment

was not included in the law. The administrator replied that he would have to review his notes which are stored in his personal residence as no systematic archive records are kept at his office. In fact, the current administrator has kept at his home all recorded files of legislation approved since 1980. This individual has been serving as the administrator for the past 16 years and is the only one capable of conducting this work; thus, if he is sick, no one is available to serve as a substitute. Moreover, his office, staffed with just one secretary, lacks the personnel and office equipment to carry out effectively its important responsibilities which include, in addition to recording plenary sessions, receiving NNA correspondence, producing dictamenes, and obtaining signatures of each bill approved. The office has no copier, one computer and a printer too slow to produce multiple copies of the bills. This is the kind of process that should be automated and integrated into the MIS, thereby enabling legislators and staff to track bills more easily.

#### 4. Inadequate Physical Facilities

The NNA occupies two buildings in the Managua government complex, which also houses a building for the Presidential office. The main building is a two-story facility which houses the plenary floor and contains office space for the members of the Directive Board, several key staff, and some committee chairpersons. The second building is a nine-story high rise adjacent to the main building. This building houses the NNA library, offices of political coalitions, and some legislative staff. This building needs substantial rehabilitation, but is sufficiently large to meet all the physical space needs of the NNA. Most committee meetings take place on three tables set up openly in the mezzanine of the main building. Although the NNA is able to function with these facilities, the legislature needs additional physical space if it expects to properly fulfill its constitutional mandate. To this end, the Taiwanese Government recently pledged a donation of \$1 million to the NNA for the construction of a new building within the Managua government complex. Furthermore, a small percentage of proceeds from the privatization of TELCOR are also to be dedicated to this effort.

#### 5. Inexperienced Legislative Staff

Another constraint of the NNA is the lack of technical expertise of committee aides and assistants in conducting legislative research. Aides are typically older attorneys whose main function is to assist one or two committees with research, analysis, and drafting bill amendments and bill reports. Because these positions are by appointment, these individuals are forced each year to convince the newly elected Directive Board to retain them. Assistants are younger law students who assist the aides in their work. Out of a total of twelve aides, four have worked an average of 10 years each in the NNA, surviving the election of a new legislature in 1990 and several Directive Boards since then. However, there is no salary difference to recognize seniority among the aides. This can have a demoralizing effect on veteran staff members, prompting them to seek work elsewhere. Such a loss of experienced staff would further weaken the NNA.

Conducting legislative research in Nicaragua is a cumbersome task given the lack of a central repository of information. All legislative aides who wish to conduct legislative and legal research must visit several libraries and institutions in Managua to search for information. Legislative aides frequently resort to hiring university students (payment is made out of their own pocket) to conduct the research for them, as the legislative assistants are kept busy with other duties, such as transcribing meeting notes. Since they do not have easy access to information sources, too much time is spent doing research. One Diputado suggested that the Aides should rely on NGOs to provide the information since these institutions have more access to the current information on a particular subject. What this Diputado perhaps did not think through thoroughly is that NGOs tend to give Diputados one-sided information. Proper legislative research covers an issue objectively. The NNA must have the internal capacity to access information from national as well as international institutions in order to achieve and maintain its integrity and autonomy.

Legislative aides could also benefit from specialized training in areas and subjects their committees cover. For very technical bills, such as the privatization of the telephone utility, the NNA wisely hired national and international experts to assist legislative aides and Committee members to better understand the number of complex issues involved. One aide that worked on the law had the opportunity to travel to other countries to study how similar bills were adopted elsewhere. This training process can be institutionalized or continue to be done ad hoc as issues arise.

It is important the NNA take the necessary steps to reward and retain these individuals because they are at the core of the legislative process and are important sources of institutional knowledge. International donor assistance of this type carries an amount of risk due to the potential loss to other employers of highly trained legislative staff. However, the growing respect for the need for experienced legislative staff among the Diputados indicates that measures may soon be instituted to train and retain skilled staff.

## **C. Administrative Structure**

The management of human resources and the financial management of a legislature are telltale signs of the overall organization of a legislature. In other words, how individuals are hired, promoted, and removed from legislative positions, and how well the institution keeps track of its finances are all key indicators of the efficiency and effectiveness of a legislature.

### **1. Human Resources**

The overall role of the administrative unit is to ensure that the NNA functions efficiently. A deficiency common to developing legislatures is the lack of a legislative career program. A well-established legislative career track leads to the development of professionals specialized in legislative management and can enhance the legislature's ability to work efficiently. The NNA

not only lacks a career program but has not defined clearly which of its 233 administrative and professional positions are political and which are not. A structural separation must be made between political and non-political staff. Since the leadership changes yearly, it is important that individuals in administrative positions not be subject to the political whims of the Directive Board. Otherwise, the potential exists for continuity to be interrupted, morale to fall, and institutional memory to be lost. The lack of a legislative career service also hinders the NNA from attracting and retaining quality individuals who can develop a level of expertise in the legislative branch. This is not to say that it is inappropriate for key administrative and committee positions to be controlled by the elected leaders; however, a distinction must be made between which positions should be politically-controlled and which should belong to civil servants appointed on the basis of merit and experience. In the case of the NNA, for example, the leadership should have control of staff immediate to the Directive Board and NNA President. Such authority is a legitimate exercise of political control over the institution. This must be balanced, however, with a commitment to develop a professional staff.

The lack of a Functions and Responsibilities Manual also impedes the efficient operation of the legislature. While the new personnel director has drafted a manual that will describe duties, responsibilities, functions and academic requirements for each legislative position, this manual has to be approved by the NNA. Since this issue is not a top priority of the NNA, legislative staff predicted that the manual is not likely to be approved anytime soon. Other problems observed include a manual personnel filing system, lack of an administrative procedures manual, lack of a systematic approach to advertising job vacancies, and a complete absence of employee work plans and performance evaluations.

## 2. Financial and Accounting

The Finance and Accounting department is in charge of all NNA expenditures and payroll and responds to the NNA Executive Secretary. The new Finance Director has extensive experience in public sector auditing and accounting and has initiated efforts to strengthen the financial and accounting controls of the NNA. Monthly financial reports are submitted to the Directive Board and daily financial balance information is kept and controlled through a computerized check writing system that is submitted daily to the Executive Secretary. The office's most difficult task is to juggle payments to providers since the budget is inadequate and often runs into spending deficits that are reconciled at the end of the year.

Although the Finance Director is experienced, his staff of approximately fifteen individuals appears to require training in computer spreadsheet programs. This lack of computer skills has led to a deficiency of record keeping. For example, the unit did not have a current inventory of all NNA furniture, vehicles, and equipment since it excluded donations from international organizations and foreign governments. Another major deficiency is the lack of a general policy with respect to travel. Per diem paid to Diputados for travel does not follow any approved standard rates. Instead, the President of the NNA determines the per diem on an individual basis depending on the nature of the trip, destination, and diputado traveling. Such a travel policy is completely contrary to sound management principles and should be rectified to establish a set of



standard per diem rates. Nonetheless, in spite of these shortcomings, the Finance and Accounting Department is one of the better performing administrative units of the NNA.

## **D. Management Information Systems (MIS)**

### **1. Definition**

The twentieth century has brought accelerated changes in information and communications technology. Global events and economic alliances have led countries to seek a competitive advantage in this field. Information is one of the main inputs of development strategies for nations.

The NNA can use information as a tool for better bill drafting, legislative functions tracking, administration, and financial control. Therefore, a well-planned information system tailored to legislative needs is an essential element of the modern legislature given the constant need for the latest information in increasingly complicated and technical fields of legislation.

The process of implementing an information system requires proper planning and methodological execution. During the planning stages, the institution must define how information technology can be used to gain competitive advantage, and enhance intra-institutional lines of communication. The institution should also forecast properly the resources needed to achieve goals (personnel, equipment, software, etc), identify short and long-term priorities, and create a master plan.

The MIS must also be institutionalized. Commitment to the implementation of the MIS master plan must be ensured at all political and institutional levels; short-term plans must contribute to long-term goals. It is important that the NNA define the goals and objectives of the legislature's MIS plan and that these goals be reflected in the plan.

The users are the true owners of the system, and thus, must be involved in the organization and definition of priorities. A users committee should be formed as a continuous feedback mechanism to provide input during project design and implementation.

Concurrently with network installation and implementation, the MIS staff must analyze actual processes and document them according to the methodology used, i.e. structured analysis, analysis by objective, flow chart, and data dictionary. Tools such as "CASE" ease the execution of system development stages. System development stages are: (1) Analysis, (2) general and detailed design, (3) programmatic, (4) implementation, (5) data conversion, and (6) evaluation. To avoid delays, definition of software and hardware needs must be defined in stages 1 and 2.

## 2. Current Constraints

The current MIS was installed under a previous USAID assistance program to the NNA, which ended in November 1995. Problems with the current computer system can be categorized in four areas: threats that might prevent progress, organizational deficiencies, MIS deficiencies, and training deficiencies. As of December 1995 the computer network had been out of order since September due to heavy lightning during the first day of installation and faulty electrical grounding connections; currently, computers are operating on a stand-alone basis. Computers are, for the most part, under-utilized in committee work due to the conditions presented below:

### a. Threats to Further Development of MIS

Many factors continue to inhibit the development of a useful MIS within the NNA. Foremost among these factors is a legislative staff that appears to have little confidence in the recently-installed network because technical difficulties, and a lightning strike, have prevented its smooth operation and because few staff have been trained to use the new system. The lack of a legislative career program may also result in the loss of those few staff members who are trained on the system.

### b. Organizational Deficiencies

The absence of a master plan is the single most important and serious constraint in the MIS area. The master plan must, in first instance, be supported by the institution and those who make up the institution. There are several key Diputados and legislative staff who do not know or understand the objectives and purpose of the recently installed network. The lack of sufficient financial resources to meet the needs of the NNA is not an excuse for not having in place a general network installation plan.

Another constraint observed was the lack of staff and users involved in developing the MIS. Users must be involved from the initial development stages of an MIS plan. The lack of clear definition of user functions and responsibilities contributed to the current situation of a system that is little understood by users.

### c. MIS Staff Deficiencies

A clear definition of the academic requirements of MIS staff does not exist. The MIS staff has not developed a marketing program to sell users on the project and its objectives. Selection and hiring of MIS personnel appears to be ad-hoc and informal. In addition, the NNA has not developed a systematic supplies purchasing (diskettes, etc) program. Finally, the MIS Department lacks strong and mature leadership.

The number of available personnel to deal with users' request and problems is insufficient. The staff is also inexperienced in project management. Rules, policies, development standards, and

document tracking of software acquisition and use do not exist. The users complained that there were no standard channels or procedures for requesting support from the MIS personnel. Users also complained about the speed of response to technical difficulties. These factors have exacerbated the lack of confidence in the MIS among Diputados and staff. Furthermore, the MIS staff has no experience with equipment and software acquisition contracting (software updates and new releases) and is thus unable to keep the system current with new technological standards.

For their part, the MIS staff complained of limited participation in the definition of technical specifications and in the recommendations for equipment acquisition, and little to no participation in software training. They even admit having limited knowledge of software already installed.

There is also an obvious lack of coordination between the MIS office and the Library with respect to microfilm installation, use, and technical support. As of December 1995, the microfilm system was not yet in operation due something as simple as a missing wall connector. Both units blame each other and the situation has not yet been resolved.

#### d. Training Deficiencies

The NNA does not have a training program tailored to different levels of user competency. The selection of individuals for training by the Directive Board, Human Resources Director, and Employee Labor Union appears arbitrary. The few training courses given to MIS staff have been too general and basic. Training of employees does not include any follow-up course, evaluation, or feedback.

### 4. Current Strengths and Opportunities

There is an overwhelming interest by political and administrative authorities in obtaining for the NNA the information technology needed for Diputados to better fulfill their duties. Diputados and legislative and administrative staff interviewed expressed willingness to support an information development program. In spite of the level of frustration among users, there seems to be a great sense of initiative, responsibility, and disposition on overcoming their lack of system training. Another advantage is that the NNA currently has the equipment (hardware) and programs (software) to begin the information development process.

### 5. Recommendations for MIS

#### a. Organization of a Local Area Network (LAN)

The NNA should immediately contract the services of an expert in local area networks, with specific expertise in Novel version 4xx, for a minimum of one month. At the same time, a legislative information systems expert should be hired to develop a Master Plan of Information Development to serve as a guide for the modernization of the MIS. The LAN expert should

oversee the implementation of the network, define user profiles and privileges, and direct the training of Information Department staff responsible for the administration of the network. Additionally, this person should identify and install the appropriate communications protocols which would connect the NNA to other national and international institutions, and evaluate the design and components of the network (i.e., servers, hubs, cable layout, and communication equipment such as modems).

b. Create Services within the Network

An immediate MIS priority is to get the system operational and make its services available to users. If the appropriate services are included in the network, the appeal of the newly-available information should do much to placate NNA staff fears of new technology. Services which would be of immediate use to a majority of the NNA staff and legislators include:

- \* a reference system of current laws
- \* a bill tracking systems which includes the original texts of all bills and all amendments to and revisions of the bill
- \* full text of all current laws
- \* the integration of the NNA legislative library and all of its services within the network

c. Training

Much of the success of improving the MIS aspect of the NNA will depend upon the level and quality of training provided to the staff. A general training plan must be developed with the support of the Information Department staff, network users and political decision-making level members of the NNA. Courses should include, but not be limited to, the following:

- \* Introduction to information systems
- \* Windows
- \* Word processing (Word for Windows recommended)
- \* Electronic mail
- \* Lotus 123 for Windows
- \* Use of the network
- \* Development applications (i.e., bill archive system)

The staff of the Information Department should take the same courses listed above (except introduction to information systems), but at a more advanced level. Information Department staff should also take:

- \* Network administration
- \* Documentation tools and system development (depending on software decisions)

d. Hardware

In order to reinforce the MIS strategy of the NNA, the following equipment should be procured for the training room:

\* Eleven microcomputers, processor 80486, 16 Megabytes RAM, hard disk minimum 300 Megabytes, minimum 50 Mhz, SVGA monitors, PCI bus, two free expansion slots, network card. Each computer should have its respective surge protector for the CPU, monitor and keyboard, as well as original license and DOS and Windows 95 users manuals.

\* The training room also needs an overhead projection screen for training purposes.

To function effectively and efficiently, each Legislative Commission should be equipped with at least one microcomputer and printer. The specification for the computers are the same as those intended for the training room. The printers should be able to print at least eight to ten pages per minute, have a minimum resolution of 300 dpi, and be able to connect to the network.

e. Software

(1) Antivirus Protection

To protect all information entered into the network from destruction, it is necessary to purchase and install an antivirus protection program. This is of paramount importance as the network will be accessed by numerous users, thus increasing the chance of infection.

(2) Definition of Norms, Standards and Documentation Procedures

The Information Department should define a general methodology and documentation process of the applications which it develops. A short-term development plan must be developed and followed for the acquisition of new software. This Department should be responsible for ensuring that all appropriate licenses and manuals are acquired.

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### **III. RELATIONS WITH OTHER BRANCHES AND INSTITUTIONS**

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A reasonable level of competition is to be expected between the Executive and Legislative branches of government. This competition can often intensify if one of the branches increases its power relative to the others. This is the case of many Latin American legislatures, including the NNA, which recently have enacted reforms to strengthen their power in relation to the Executive branch of government. Changes in these relationships cannot happen overnight. The Executive has the capability to confront and challenge the Legislature and other branches in many policy and technical decisions that will affect the country since it usually has superior resources to study issues and propose legislation.

#### **A. Executive Branch**

The relationship among these two branches (executive and legislative) deserves particular attention. The Constitutional reforms enacted in 1995 helped to realign power more evenly between the Executive and Legislative branches. Some duties previously performed exclusively by the Executive are now shared with the NNA, such as issues relating to tax and finance. In addition, the legislature has been given new oversight authority to ensure that the Executive does not abuse its constitutionally-vested authority.

One legislator stated that the June 1995 negotiations between the Executive and Legislature regarding the legality of the constitutional reforms created a forum for both branches to get to know each other better. Consequently, many within the Executive branch have a newfound respect for the NNA and its members. Another Diputado compared the relationship between the two branches to that of siblings squabbling over autonomy. "It will be a while before the friction subsides, but eventually they will get along as they have no other option," he explained. At the same time, members of the Executive branch admitted that providing its own officials who deal with the NNA with training in legislative affairs would also help to improve the relationship between the two branches.

Some within the Executive branch feel that the constitutional reforms have made it more difficult to govern by granting too much power to the NNA. These same individuals also feel that the NNA does not have the sufficient capacity to deal with some of its new functions such as taxes, the budget, and highly technical legislation. Two specific complaints from the Executive about the NNA structure are its organization and unicameral nature. With respect to

the organization, the complaint centered around the turnover of NNA leadership which forces the Executive to frequently change its legislative strategy. The second complaint related to the Legislative branch's unicameral structure which, in the opinion of some, does not allow for the proper review and thorough analysis of legislation.

Although significant legislation has historically originated in the Executive branch, there is no justification that this function ought to be the sole authority of the Executive branch. Recent examples of significant legislation in which both branches coordinated efforts include the new Military Code, and the fishing, environmental, and electoral laws. However, the lack of a statutory retrieval system hinders both branches in the development of legislation. Legislators commented that while the Executive is willing to share information with the NNA, the information sent does not seem to reach all Diputados. The Executive branch feels this is an internal problem of the NNA.

While many members of the Executive branch expect the next NNA to be composed of a more professional corps of legislators who are more concerned with properly representing their districts, they do not seem to fully appreciate that the participatory element of democracy requires that the NNA make decisions based upon the views of all 92 legislators as well as those of major elements of civil society. Such a decision-making process is inherently slower and more cumbersome than that typically employed by Executive branches of government.

## **B. Judicial Branch**

Unfortunately, for reasons beyond our control, we were not able to meet with Supreme Court officials. The Justice Committee Chairperson, however, described the relations between these two branches as cordial, yet he expects the next NNA to play a more active role in the modernization of the Judicial branch. Not enough attention has been given to the Administration of Justice in Nicaragua since the change of power in 1990, he commented. The Judicial branch was described as too vertical, with every decision depending on the Supreme Court. The Diputado expects the NNA to sponsor seminars on the subject of judicial modernization in order to generate support for reform. He also anticipates that the NNA would appoint more reform-minded individuals to the Court, once the terms of the more conservative magistrates end.

## **C. Electoral Council**

Although no interviews were conducted with the Supreme Electoral Council, one Diputado described the relationship as positive. Two recent examples of this collaborative relationship are the constitutional reforms to the Electoral Council and the enactment of a new electoral law.

## **D. Other Institutions**

### **1. Military**

Historically in Nicaragua the Military has served a significant role in the cultural, social, and political development of the country. Its relationship to the NNA is also of significance for the democratic development of the country. Relations between the NNA and military appear to be improving rapidly, if the budget process is any indicator. Breaking new ground, the NNA requested top military officials to testify in committee on the military's budget. Military officials complied and publicly disclosed their funding levels for legislative review and analysis. The meetings were assessed as very cordial and a mutual agreement was reached which resulted in a modest increase in the budget for the military.

This spirit of cooperation and mutual respect represents an excellent precedent for the NNA to begin working with other branches of government and Executive Ministries similar fashions. Public budget hearings, as a tool for budget analysis, can enhance the NNA's level of participation in the budget process. When used properly, legislative budget hearings serve as a reminder to the Executive that its actions are subject to the review and oversight of the Legislature.

### **2. Media**

NNA relations with the press are channeled through the office of Press and Public Relations. The office is staffed by a Director (a journalist by training), two journalists and a secretary. One of the main functions of the office is to publish the Legislative Gazette (Gaceta Parlamentaria), a legislative newsletter covering committees activities and other legislative events. The Director and the two journalists attempt to cover all committees, and the secretary refers for response dozens of daily press inquiries, in addition to performing secretarial duties. The information provided by the unit is non-partisan. The unit has produced brochures for press officials on how the NNA functions and operates, which, due to a lack of funds, they are unable to disseminate widely.

In addition, the unit supplies at no charge legislative information to several university professors outside of Nicaragua, such as copies of the Gazette and copies of bills. Distribution of the Gazette and other materials is a potential revenue-generating activity that should be explored by the NNA.

The office is located in cramped quarters off the plenary floor and is equipped with just one computer shared by the four staff members. Their opinion of the local press is that there are some good journalists, but by and large only a few journalists understand the legislative process or the range of issues addressed by the NNA.



### 3. Interest Groups

By and large interest groups in Nicaragua do not lobby Diputados as systematically and formally as in developed countries. Their role in the Nicaraguan legislature, with the exception of more active groups such as the association of municipal governments and independent human rights groups, is primarily limited to educating Diputados on specific issues. This information is valuable to Diputados as it is often the only information available to them. This form of information dissemination runs the obvious risk of being biased and highlights the need for access to more impartial information.

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## IV. INTERNATIONAL DONOR EFFORTS

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International assistance to strengthen the NNA has been provided on an ad hoc basis without a coordinated donor strategy. It is the responsibility of donors to ensure assistance complements, rather than duplicates, ongoing modernization efforts. It is also the responsibility of the recipient, in this case the NNA, to organize itself as an effective and active participant in its modernization.

During the past two years several international organizations have assisted the NNA in different capacities. The Norwegian government sponsored a National Water Fair and assisted the Environment Committee in drafting legislation. The Swedish government also assisted in the drafting of several environmental, fishing, and forestry bills. The German government donated printers, photocopying equipment, and scanners. The Konrad Adenauer Foundation sponsored seminars on several topics, including constitutional reform. The first human rights legal process seminar in Nicaragua was organized by the Latin American Ombudsman Institute and sponsored by the government of Finland, and the European Community donated \$500,000 to support IIAL.

In the future, significant contributions can be expected from the Swedish government and the Interamerican Development Bank (IDB). Assistance from the Swedes is expected to focus again on helping to draft technical legislation.

The most substantial assistance the NNA can expect will be from the IDB. At the time this diagnostic was being conducted, the IDB was reviewing a diagnostic study conducted in September 1995 that reached conclusions similar to this one. Conversations with IDB officials revealed that it expects to assist the NNA in the areas of bill drafting, administrative strengthening, information systems, and reform of the internal rules. The IDB expressed a willingness to collaborate closely with USAID and any other donor agency that assists the NNA. At this time, the Bank is contemplating a three-year project to commence during the second quarter of 1996, valued at between \$.75-1.5 million.

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**ANNEXES**

**INDIVIDUALS INTERVIEWED**

## **Annex A**

### **INDIVIDUALS INTERVIEWED**

#### **UNITED STATES MISSION IN NICARAGUA**

##### **U.S. Embassy**

1. Frederick Baker, Political Section
2. Elisabeth Schuler, Political Section
3. Joseph McBride, U.S. Information Service

##### **U.S. Agency for International Development**

4. Mark Silverman, Deputy Director
5. Alexandria Panehal, Chief, Office of Democratic Initiatives
6. Gary Russell, Coordinator, Strengthening Democratic Institutions Project

#### **NICARAGUAN NATIONAL ASSEMBLY (NNA)**

##### **Diputados**

7. Hon. Luis Humberto Guzman, UDC and NNA President
8. Hon. Jose Talavera Salinas, MRS
9. Hon. Luis Sanchez Sancho, UNO
10. Hon. Roberto Urroz C., MDN and Committee Chairperson
11. Hon. Alfredo Cesar Aguirre, PND and NNA past president.
12. Hon. Luisa del Carmen Larios Mora, UDC and Population and Community Development Committee Chairperson
13. Hon. Jaime Bonilla Lopez, PLC, and Directive Board member
14. Hon. Danilo Aguirre Solis, MRS and Justice Committee Chairperson

##### **Administration**

15. Lic. Juan Manuel Espinoza, Executive Secretary
16. Lic. Xiomara Hernandez, Personnel Director
17. Lic. Aurelio Soza, Finance Director
18. Lic. Antonio Somoza, General Services Director
19. Lic. Dennis Martinez, MIS Director
20. Lic. Rafael Almendarez, MIS Coordinator
21. Dra. Glenda Ramirez, Information Systems Director
22. Dr. Alan Zambrana, International Relations Director
23. Lic. Maria Elena Martinez, Press and Public Relations Director
24. Dra. Mayling Obregon, Budget Analysis Office Director
25. Lic. Francisco Samper, Budget Analysis Office Analyst
26. Lic. Aleida Garcia, Budget Analysis Office Analyst

- 27. Dr. Ignacio Castillo,
- 28. Dra. Auxiliadora Acosta, Committee Aide
- 29. Lic. Luz Marina Gonzalez, Committee Assistant
- 30. Dr. Manuel Ugarrios, Daily Debate Director
- 31. Dra. Rhina Mayorga, Library Director

#### EXECUTIVE BRANCH

- 32. Dr. Tomas Delaney, Viceminister, Presidency Ministry.

#### OTHER INSTITUTIONS

##### Instituto de Investigacion y Asistencia Legislativa (IIAL)

- 33. Lic. Oscar Mazier
- 34. Dr. Julio R. Garcia, board member and Supreme Court Magistrate

##### Instituto Nicaraguense Pro Derechos Humanos

- 35. Lic. Julio Cesar Sobario

##### International Development Bank

- 36. Lic. Francisco Mejia

##### Proyecto Desarrollo Legislativo Costa Rican National Assembly (PRODEL)

- 37. Reginald Todd, Director
- 38. Dr. Hugo Alfonso Munoz, asesor, former Justice Minister, former Diputado of Costa Rica
- 39. Dr. Ronnie Rodriguez, Deputy Director
- 40. Lic. Humberto Morales Guzman, Committee Aide, Costa Rica National Assembly
- 41. Dra. Marina Ramirez Altamirano, Asesora.

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**DOCUMENTS REVIEWED**

## **Annex B**

### **DOCUMENTS REVIEWED**

1. Constitucion Politica con las reformas vigentes de 1995, Republica de Nicaragua.
2. Directorio Quien es Quien en la Asamblea Nacional, Asamblea Nacional de Nicaragua, XI Legislatura.
3. Manual de Tecnicas Legislativas, Asamblea Nacional de Nicaragua. Abril 1994. By Glenda Ramirez.
4. Retos para el Desarrollo de una Sociedad Estable, Democratica y Prospera. Agencia Internacional para el Desarrollo, Managua, Nicaragua. Marzo, 1995.
5. Nicaraguan Democracy Strengthening Initiative, by Larry Heilman, Ph.D., and Jenny Lincoln, Ph.D. January, 1995.
6. Terminos de Referencia Asamblea Nacional de Nicaragua Proyecto Sistema de Gestion Parlamentaria Creacion de Bases de Datos. Author unknown.
7. Needs Assessment & Initial Bilateral Assistance Recommendations for the National Assembly of the Republic of Nicaragua. A Report to the United States Agency for International Development. Prepared by the Consortium for Legislative Development. December 14, 1990.
8. Regional Legislative Development Project: Midterm Evaluation. Prepared for the United States Agency for International Development Bureau for Latin America and the Caribbean Office of Democratic Initiatives. Prepared by Creative Associates International, Inc. April, 1993.
9. Diagnostico de Necesidades de Capacitacion Para Asesores Legislativos de la Asamblea Nacional de Nicaragua. Preparado por Roberto Tovar, Ronny Rodriguez, y Olman Villarreal en asociacion con la Universidad de Costa Rica Centro par Investigacion y Capacitacion en Administracion Publica. 15 de octubre de 1994.
10. Bylaws of the Instituto de Investigacion y Asistencia Legislativa.
11. Borge y Asociados, Informe encuesta de opinion, tipo omnibus. Septiembre, 1995.
12. Memoria Legislativa 1994, X Periodo de Sesiones, Asamblea Nacional de Nicaragua.
13. Proyecto Manual de Funciones 1996. Asamblea Nacional de Nicaragua.



14. Estatuto General de la Asamblea Nacional. Texto Actualizado tomando en cuenta la sentencia de la Corte Suprema de Justicia del 24 de noviembre de 1992 declarando inconstitucionales varias disposiciones del Estatuto, y las reformas segun los Decretos A.N. No. 495 del 31 de marzo de 1992, No. 742 del 10 de marzo de 1994, No. 904 del 29 de noviembre de 1994 y la Ley No. 171 del 3 de febrero de 1994. Managua, Nicaragua. Enero de 1995.
15. Reglamento Interno de la Asamblea Nacional. Decreto A.N. No. 412.
16. Political Culture in Nicaragua: Transitions, 1991-1995. Prepared by Mitchell A. Seligson. November 25, 1995.
17. Action Memorandum for the Mission Director from Roslyn Waters, Acting Chief, PDIS. U.S. Agency for International Development, Managua, Nicaragua. July 10, 1995.
18. Fortalecimiento de la Instituciones Democraticas proyecto 524-0316, Analisis de Requerimientos. Preparado para el Centro Para la Democracia, Consorcio para el Desarrollo Legislativo. Preparado por Miriam de Medina, Jorge Bela, Gillermo Jacoby, y Alvaro Garcia. Noviembre 1992.
19. Asistencia Tecnica Para el Desarrollo Legislativo. Perfil de Proyecto de Asistencia Tecnica Para el Fortalecimiento, Modernizacion y Desarrollo Legislativo de la Asamblea Nacional de Nicaragua. Documento de trabajo del Banco Internacional de Desarrollo. 27 de marzo de 1995.

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**LEGISLATIVE BRANCH CONSTITUTIONAL  
FUNCTIONS AND DUTIES**

## Annex C

### LEGISLATIVE BRANCH CONSTITUTIONAL DUTIES AND FUNCTIONS

\* denotes new functions and duties included in 1995 constitutional reforms.

- (1) Draft and approve legislation and decrees as well as amend existing law.
- (2) Authentic interpretation of law.
- (3) Grant amnesty or pardon by its own or presidential initiative.
- (4) Request information and reports from Ministers and Vice Ministers. Request Ministers and Vice Ministers physical presence for questioning.
- (5) Grant or cancel Judicial Status to civil associations.
- (6) Know, discuss, and approve the General Budget Annual Law, and be informed periodically of its execution.
- (7) Select Supreme Court Justices.
- (8) Select Supreme Electoral Council Justices.
- (9) Select the Central Bank Superintendent and Vice Superintendent. Select the Attorney and Deputy Attorney General. Select the Human Rights Defender and Deputy Defender. Candidates for posts on (7), (8), and (9) cannot be related to the President or Diputados who propose them by blood on the fourth degree, and politically (i.e. marriage associations) on the second degree.
- (10) Know, admit, and decide over the fate of a Diputado when at fault. The article lists the causes for dismissal of Diputados.
- (11) Know and admit resignations and firings of individuals named in (7), (8), and (9).
- (12) Approve or deny international treaties and accords which should be submitted no later than 15 days after signature; if not approved or denied within 60 days, treaties and accords are approved by default.
- (13) Approve everything related to national symbols.
- (14) Create honorary and national distinctions.
- (15) Create and grant national character orders.
- (16) Receive the President and Vice President to listen to the Annual Report.
- (17) Elect its Junta Directive (Leadership Council).
- (18) Create permanent, special, and research committees.
- (19) Grant grace pensions, and honors to individuals who have served the country and humanity.
- (20) Determine the political and administrative division of the national territory.
- (21) Know and make recommendation over social and economic development plans and policies.
- (22) Fill the vacancies of the President and Vice President when they occur separately or simultaneously.
- (23) Authorize Presidential trips abroad when they extend beyond 15 days.

- (24) Receive from judicial authorities and citizens accusations and complaints about officials who have immunity to know and resolve them.
- (25) Dictate and reform its own statute and internal rules.
- (26) Authorize or deny the exit of military troops outside of the national territory.
- (27) Create, approve, modify or eliminate taxes.
- (28) Approve, deny, or modify the Executive decree suspending constitutional guarantees and rights, or State of Emergency.
- (29) Receive annually reports from the Attorney General, Human Rights Defender, Central Bank Superintendent and other financial institutions.
- (30) Name the Human Rights Defender.
- (31) Session in ordinary or extraordinary sessions.
- (32) Other attributions given by the Constitution and laws.